

EDWARD C. HUGLER,  
Acting Secretary of Labor,  
United States Department of Labor,  
  
Plaintiff,  
  
v.  
  
LA CARRETA OF FOLLY, INC. d/b/a  
LA CARRETA MEXICAN RESTAURANT,  
LA CARRETA, INC. d/b/a  
LA CARRETA MEXICAN RESTAURANT,  
And HUGO VILLALPANDO, an individual.  
  
Defendants.

FILE NO.  
2:17-cv-00869-DCN

**COMPLAINT**  
**(Injunctive Relief Sought)**

Plaintiff Edward C. Hughler, Acting Secretary of Labor, United States Department of Labor (“Plaintiff”) brings this action pursuant to § 17 of the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201, et seq., hereinafter the Act, to have Defendants La Carreta of Folly, Inc., La Carreta, Inc., and Hugo Villalpando, an individual, (hereinafter referred to collectively as “Defendants”) enjoined from violating §§ 6, 7, and 11 (c) of the Act, 29 U.S.C. §§ 206, 207, and 211(c), and, pursuant to §16(c) of the Act, 29 U.S.C. § 216(c), to recover unpaid wages including overtime compensation, together with an equal amount as liquidated damages.

# I

Jurisdiction hereof is conferred upon the Court by § 17 of the Act, 29 U.S.C. § 217, to enjoin violations of the Act and to restrain the withholding of back wages due under the Act; and by 28 U.S.C. § 1345 to award additional amounts, equal to back wages due, as liquidated damages under § 16(c) of the Act, 29 U.S.C. § 216(c).

## II

A. Defendant La Carreta of Folly Inc. at all times hereinafter mentioned has been a corporation having a place of business and doing business in Charleston, South Carolina, engaged in preparing and servicing Mexican food.

B. Defendant La Carreta Inc. at all times hereinafter mentioned has been a corporation having a place of business and doing business in Charleston and Summerville, South Carolina, engaged in preparing and servicing Mexican food.

C. Defendant Hugo Villalpando is the sole owner of both La Carreta of Folly Inc. and La Carreta Inc. and is involved in the day to day operations. Defendant Hugo Villalpando, doing business in Charleston and Summerville, South Carolina, at all times hereinafter mentioned acted directly or indirectly in the interested of the aforesaid La Carreta of Folly Inc. and La Carreta Inc., in relation to their employees, and therefore is an employer within the meaning of § 3(d) of the Act, 29 U.S.C. § 203 (d).

### III

At all times hereinafter mentioned:

A. Defendants engaged in related activities, performed either through unified operation or common control for a common business purpose, that constitute an enterprise within the meaning of § 3(r) of the Act, 29 U.S.C. § 203 (r); and

B. Such enterprise, which employed employees handling, selling, or otherwise working on goods or materials that have been moved in or produced for commerce and having an annual gross volume of sales made or business done of not less than \$500, 000 (exclusive of excise taxes at the retail level which are separately stated) constitutes an enterprise engaged in commerce or in the production of goods for commerce within the meaning of § 3(s)(1)(a) of the Act, 29 U.S.C. §§ 203(s)(1)(a)(i) and (ii).

#### IV

Since December 8, 2013, Defendants repeatedly and willfully violated the provisions of §§ 6 and 15(a)(2) of the Act, 29 U.S.C. §§ 206 and 215(a)(2), by failing to pay employees, who are employed in an enterprise engaged in commerce or in the production of goods for commerce, the applicable minimum hourly rate.

#### V

Since December 8, 2013, Defendants repeatedly and willfully violated the provisions of §§ 7 and 15(a)(2) of the Act, 29 U.S.C. §§ 207 and 215(a)(2), by employing employees who have been engaged in commerce or in the production of goods for commerce, for workweeks longer than 40 hours without compensating such employees for their employment in excess of such hours at rates not less than one and one-half times the regular rates at which they were employed.

#### VI

Since December 8, 2013, Defendants, an employer subject to the provisions of the Act, repeatedly and willfully violated the provisions of §§ 11(c) and 15(a)(5) of the Act, 29 U.S.C. §§ 211(c) and 215(a)(5), and Regulations found at 29 C.F.R. § 516 by failing to make, keep and preserve adequate and accurate records of the persons employed and of the wages, hours and other conditions and practices of employment maintained by Defendant, as prescribed in the aforesaid Regulations.

#### VII

Defendants and Plaintiff entered into a tolling agreement whereby the parties agreed that the statute of limitations set forth at § 6 of the Portal-to-Portal Act, 29 U.S.C. § 255,

would be tolled in this matter beginning on the date the tolling agreement was signed. This tolling agreement was signed by both parties on February 19, 2016,

## VIII

WHEREFORE, cause having been shown, Plaintiff prays for Judgment:

A. Pursuant to §17 of the Act, 29 U.S.C. § 217 permanently enjoining Defendants, its agents, servants, employees and all persons in active concert or participation with it from violating the provisions of §§ 6, 7, 11(c) and 15 of the Act;

B. Pursuant to § 16(c) of the Act, 29 U.S.C. § 216 (c), awarding back wages for the period since December 8, 2013 and an additional equal amount as liquidated damages to employees (as named in Appendix “A” attached hereto and made a part hereof and such other employees as hereafter may be identified and named prior to or at trial); and

C. For such other and further relief as may be necessary and appropriate including costs of this action.

April 3, 2017

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